

## Zoning Board of Adjustment Meeting Minutes

**Location:** Strafford Town Hall Conference Room

**Date & Time:** February 16, 2023 7:00PM

**Voting Board Members Present:**

Ashley Rowe – Chairman

Alison Brisson – Vice Chairman

Aaron Leff

**Others Present:**

Autumn Scott, Strafford Regional Planning Commission, Regional Planner

Robert Fletcher, Minutes Recorder

The Chairman called the meeting to order at 7:05PM and recognized Board members Alison Brisson and Aaron Leff as present. He also recognized as present Autumn Scott. He indicated the closing date for new applications to be filed for the agenda for the regular March 16, 2023 meeting will be February 23, 2023.

The Chairman asked for a motion to accept the minutes of the January 19, 2023 meeting as written, which was so moved by Aaron Leff, seconded by Alison Brisson, and voted upon verbally in the affirmative by all Board members present.

The Chairman announced for the record that, as Chairman, he does not normally vote during Zoning Board proceedings; however, with the number of voting Board members present, he will be voting when necessary.

### **New Business**

**Request for Variance-**Allen and Holly Gahm, 275 Browns Pasture Rd, Tax Map 30, Lot 8.

The Chairman asked Autumn Scott to introduce the Case. She indicated that the application before the Board was a Request for two Variances; one to Article 1.4.1, Section C, Side and Back Yards, and a second to Article 1.4.4, Section 3, Wetland Buffer Areas in order to allow removal of an existing non-conforming structure and construction of a new, two-story structure on the existing footprint. The new structure includes the addition of an approximately 10-foot by 14-foot area which is not located in the existing footprint and an approximately 6-foot by 23-foot deck.

The Chairman indicated that a full Board was not present and asked the applicants if they wished to proceed or delay until a full Board would be present. The applicants chose to proceed, and the Chairman asked Chris Berry of Berry Surveying and Engineering to present details of the application. Before beginning his presentation, Mr. Berry indicated that he believed the Board had a few questions. The Chairman asked if the proposed structure would increase the load on the septic system and if conversion to year-round use was being proposed. Mr. Berry indicated that the proposal was for a two-bedroom structure, similar to the current structure, which would not increase the load, the septic

system was approved for year-round use, and the applicants were planning year-round occupancy. Mr. Berry also indicated that reference to “camp” would be removed from the proposed plans and the current architectural plans indicate the structure height.

With reference to a Site Plan, Mr. Berry described the property as a small lake lot with an existing outhouse and shed, septic system and well. The applicant has filed for a Shoreland Permit to demolish the existing structure and construct a two-bedroom home using the existing foundation. One non-conforming corner of the existing structure is 13.4 feet from the eastern boundary and another corner of the existing structure is 25 feet from Bow Lake. The new structure will not be less distance from either of these points. The new structure will include an small enclosed area that is not part of the existing footprint and a deck covered by the roof line. The deck extends the non-conformance of the structure along the water’s edge; however, it is still within the primary setback and included in the Variance request. The plan includes gutters and down spouts on new roof lines with drainage to a dry well. The new construction results in a slight increase in impervious area; however, the proposed roof line drainage reduces the impervious area by approximately 36 percent. Both the current septic system and well are adequate to support a two-bedroom structure and year-round occupancy.

The Chairman asked if the Board had any questions. There being none, the Chairman asked that the plan note, “This is not a boundary survey”, be removed, because Mr. Berry had indicated that a survey had been conducted. Mr. Berry agreed to remove the note, which in its absence indicates certification of the lot boundaries. There being no further questions or comments, the Chairman asked Mr. Berry to address the criteria to be met in order for a proposal to qualify for the granting of a Variance. Mr. Berry presented the following:

**1. *Granting the Variance will not be contrary to the public interest.***

The public interest, with respect to these sections are to ensure there is no overcrowding of each lot within the area and protection of the surface water to the extent possible. Given that the existing encroachment is being maintained and there is no further encroachment we feel that this public interest has been maintained. The proposed deck is being proposed to the side of the structure and not to the front of the structure ensuring the maximum reasonable setback is adhered to. The deck is no closer to the water than the existing structure and becomes increasingly further from Bow Lake moving to the west.

**2. *The use contemplated by the applicant as a result of obtaining the Variance would or would not be consistent with the spirit of the Ordinance.***

The spirit of the ordinance is to ensure uniformity with the abutting lots as they pertain to space and bulk standards. In this case the existing foot print is not being modified and therefore the space and bulk standard remains the same. With respect to the setback requirement to Bow Lake the spirit of the ordinance is to allow for reasonable re-development of property while maintaining or enhancing the water quality received by the lake. In this instance the vertical expansion of the structure and the addition of the deck provides the opportunity to enhance the water quality of the site to the lake while staying within the same developed foot print.

**3. *By granting the Variance, substantial justice would or would not be done.***

The benefit to the applicant far outweighs any potential detriment to the ordinance by allowing the applicant to build within the same foot print, keeping the existing foundation and therefore substantial justice is accomplished. The sites stormwater is improved and reduced which is in line with the stormwater ordinance and with the NHDES Shoreland program.

4. ***There would or would not be a diminution in the value of the surrounding properties.***

The surrounding properties would be benefited in value by the reconstruction of the existing home. There is no diminution caused by the reconstruction of the home within the same foundational foot print.

5. ***Special conditions exist such that literal enforcement of the Ordinance will result in unnecessary hardship in that 1) there are or are not "special conditions" of the property that distinguish it from other properties in the area such that denial of the Variance would result in unnecessary hardship, 2) the relationship between the general public purpose of the ordinance and the specific application to this property is fair or no fair and substantial relationship exists, 3) the proposed use is reasonable, OR there are or are not special conditions of the property that distinguish it from other properties in the area such that there is not a reasonable use of the property without granting a Variance.***

In this case the special condition of this parcel is the existing infrastructure that is to remain in conjunction with the existing non-conforming lot and general lot shape. The existing foundation is in fine condition for re-use and therefore the reconstruction cannot be made more conforming. The unnecessary hardship to the applicant would be a denial which would force the applicant to demo the existing foundation and re-locate the house on the lot. This would come at great needless expense to the applicant and likely still require relief from the ZBA and would likely result in an odd use of the lot and driveway. This is unnecessary with the granting of a variance to essentially be within the same existing foot print and improve the storm water runoff from the lot.

The Chairman asked the Board if they had any questions or concerns. There being none, he asked for a motion to grant both Variances as submitted contingent upon; 1) the successful receipt of a Shoreland Permit that matches the proposed plans, and 2) final plans being submitted. Aaron Leff made a motion to grant both Variances with the above contingencies, which was seconded by Alison Brisson, and voted upon verbally in affirmative by all voting Board members. The motion passed.

There being no further business before the Board, the Chairman called for a motion to adjourn. Aaron Leff moved to adjourn, which was seconded by Alison Brisson, and voted on in the affirmative by all Board members. The meeting was adjourned at 7:20PM.